PLASTICS
INDUSTRY ASSOCIATION

May 15, 2017

Office of Policy and Regulatory Management, Office of Policy
Environmental Protection Agency
1200 Pennsylvania Ave. N.W.
Washington, D.C. 20460
Submitted via Regulations.gov

Re: Evaluation of Existing Regulations; Request for comment (Docket No. EPA-HQ-OA-2017-0190; FR Doc. 2017-07500)

Dear Ms. Rees, and Staff within the Office of Policy and Regulatory Management:

The Plastics Industry Association (PLASTICS)[1] is responding to the U.S. Environmental Protection Agency's (EPA) request for comment on "regulations that may be appropriate for repeal, replacement or modification" in accordance with President Trump's Executive Order of February 24, 2017, on "Enforcing the Regulatory Reform Agenda".[2] We believe there is room for improvement – e.g., where requirements lack clarity, are outdated or are otherwise ineffective – but changes must be made in ways that are protective of human health and the environment.

About PLASTICS

From resin suppliers and equipment makers to processors, brand owners and recyclers, PLASTICS represents nearly one million workers in all segments of the $418 billion U.S. plastics industry. We promote plastics manufacturing, work to make our members and the industry more competitive globally, and advance recycling and the stewardship of resources. Industry innovations continuously improve products from healthcare and medical devices to building and construction, automotive and packaging. Our members are subject to a range of federal environmental regulations and are well-suited to respond to this request for comment.

PLASTICS on the Environment and Product Stewardship

Consistent with our association's policies, we emphasize that prudent environmental policies are vital elements of modern society. Plastics are compatible with and in many instances contribute to environmental goals. This includes lighter automobiles and aircraft to improve fuel efficiency and reduce emissions; components of water filtration, delivery and sanitation systems; energy efficient insulation; rotor blades for wind turbines and solar roofing shingles.

[1] SPI: The Plastics Industry Trade Association became the Plastics Industry Association ("PLASTICS") on December 6, 2016. For more information on PLASTICS, please visit www.plasticsindustry.org
[2] E.O. 13777. 82 Fed. Reg. 12285 (Mar. 1, 2017), available at https://www.federalregister.gov/documents/2017/03/01/2017-04107/enforcing-the-regulatory-reform-agenda

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PLASTICS also encourages its members to protect the environment and to foster the creation of products that can be made and used in a safe and responsible manner, maintaining the highest possible standards of product stewardship. This includes conducting every aspect of the product lifecycle to minimize impacts on the environment by creating and handling products that, in their manufacture and consistent with their intended use, the fewest resources are consumed and it generates the least amount of pollution possible.

Twenty-five years ago, PLASTICS launched Operation Clean Sweep (OCS)[3], a product stewardship program currently administered in conjunction with the American Chemistry Council (ACC). OCS promotes manufacturing industry good housekeeping practices that prevent plastic pellets from entering the world's waterways.

When it comes to governmental policies, PLASTICS supports policies that: rely on principles and practices of sound science as a basis for environmental legislation and regulation; embrace technological advances in achieving environmental gains; reflect the global nature of many environmental challenges, and encourage process efficiency improvements.

Opportunities for Regulatory Improvements

As indicated in our response[4] to the Department of Commerce's request for information on federal regulations impacting domestic manufacturing[5], addressing policies, practices and procedures within existing regulatory frameworks is expected to be less resource intensive than efforts requiring amending legislation. PLASTICS will engage with agency offices responsible for programs where relevant opportunities for improvement are identified.

Clean Air Act (CAA) and Clean Water Act (CWA) – *Permits and Reporting*

PLASTICS members have reported that for various air and water programs (e.g., National Pollutant Discharge Elimination System permits under 40 CFR Part 71), by the time some permits are issued, it is practically time to start the application process for the permit renewal. One way to simplify renewal processes is to ensure applicants are not required to restate the same information on a previous permit if the processes have not changed.

EPA has previously sought to 'reduce the administrative "friction" – costs, time, delay, uncertainty, and risk – experienced by sources and permitting authorities when implementing a permit or making certain changes under the permit.'[6] Flexible air permitting, for example, is not a new idea.[7] Netting and debottlenecking have been raised in past rulemakings and Prevention of Significant Deterioration (PSD) permitting under 40 CFR Part 71.

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[3] For more information: www.opcleansweep.org
[4] Attached here; also available at: https://www.regulations.gov/hdocument?D=DOC-2017-0001-0133
[5] Impact of Federal Regulations on Domestic Manufacturing; Request for Information (RFI). Docket No. 170302221-7221-01; FR Doc. 2017-04516.
[6] https://www.epa.gov/sites/production/files/2015-09/documents/eval-implementation-experiences-innovative-air-permits.pdf, last accessed May 7, 2017.
[7] Operating Permit Programs; Flexible Air Permitting Rule; *Federal Register* on October 6, 2009: https://www.gpo.gov/fdsys/pkg/FR-2009-10-06/pdf/E9-23794.pdf

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Additionally, operating permits under Title V of the CAA requires major sources and others to certify, at least annually, compliance with the requirements of the permit. Where facilities are reporting quarterly, less frequent reporting may be a reasonable option and would *not* relieve those facilities of other obligations, e.g., complying with pollution control measures.

With respect to compensatory mitigation regulations under CWA Section 404, members have reported permits taking as much as one to two years to obtain, with many delays due to inefficiencies in the process for demonstrating that compensation requirements will be met.

We respectfully request that EPA find ways to streamline permitting, increase the length of permits, make permits more flexible, and reduce reporting frequency – in ways that maintain adequate measures to assure compliance, encourage pollution prevention, add transparency and reduce administrative burdens for regulated entities and permitting authorities. Noting the Administrator of the EPA and the Assistant Secretary of the Army for Civil Works received directives regarding the Clean Water Rule via Executive Order, we request that any revision include improved processes to reduce the time it takes for facilities to secure permits.

Leak Detection and Repair (LDAR) – *Monitoring Requirements for Connectors*

Requirements for LDAR programs are included in various National Emission Standards for Hazardous Air Pollutants (NESHAPs), New Source Performance Standards (NSPS), the Resource Conservation and Recovery Act (RCRA), State Implementation Plans (SIPs) and other state and local programs.

We support the basic elements of LDAR programs and practices for effective implementation, including monitoring connectors and repairing them as needed. EPA once estimated that connectors accounted for about 31% of the uncontrolled volatile organic compound (VOC) emissions at a typical facility, with valves for about 62%. Monitoring intervals for connectors can be as much as two years or more, depending on the type of connector and its periodic leak rate.[8] While some regulations allow for "skip periods" of less frequent monitoring upon demonstration of good performance and with additional recordkeeping requirements, some of our member facilities spend tens of thousands of dollars annually for connector monitoring that has not shown to be valuable and could be invested in other environmental programs. EPA guidance notes "[t]o ensure that leaks are still being identified in a timely manner and that previously unidentified leaks are not worsening over time, implement a plan for more frequent monitoring for components that contribute most to equipment leak emissions."[9]

We respectfully request that EPA review LDAR requirements, and work with stakeholders to determine where less frequent monitoring could be reasonably allowed for facilities with proven track records of proper maintenance of connectors, replacement of worn seals or gaskets, and reliable monitoring.

[8] "Leak Detection and Repair: A Best Practices Guide", U.S. EPA, October 2007. Available at: https://www.epa.gov/sites/production/files/2014-02/documents/ldarguide.pdf
[9] Ibid.

Maximum Achievable Control Technology (MACT) Standards – *"Once in, Always in" Policy*[10]

This controversial policy was the subject of a rulemaking to amend General Provisions to NESHAPs[11] but the guidance remains in place. With some conditions, major sources are required to continue to comply with emissions control and reporting requirements even after the source has reduced its HAPs emissions below the MACT applicability cutoff due to process or operational changes.

We respectfully request that EPA review and repeal, replace or modify the "once in, always in" policy, such that facilities having substantially reduced their emissions well below an applicable threshold are not penalized with perpetual reporting burdens and that other facilities are not disincentivized from similarly reducing their emissions.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) – *Wastewater Proposal*

A 1994 proposed rule sought to reduce VOC emissions from wastewater at SOCMI plants by amending 40 CFR Part 60, Subpart YYY.[12] Two supplemental proposals were issued, including revised definitions and alternative test procedures; the proposal was most recently amended in 2004, but a rule was not finalized.[13]

We respectfully request that EPA review this 1994-2004 rulemaking, and either plan to update the proposal if it is still needed so that it reflects current control technologies and an updated compliance schedule, or eliminate any uncertainty by withdrawing the rulemaking entirely.

Resource Conservation and Recovery Act (RCRA) – *Hazardous Waste Generators*

EPA finalized a Hazardous Waste Generator Improvements Rule that goes into effect on May 30, 2017.[14] While it offers a number of improvements, the new 40 C.F.R. §262.10(g)(2) is now expected to complicate reuse and recycling because of the enforcement position for minor violations. In particular, generators in violation of any condition for exemptions applicable to the size and status of that generator will be considered to be storing hazardous waste such that a hazardous waste storage permit is required (i.e., as a Transporter Storage Disposal Facility, TSDF) – the most stringent level of regulation. A single minor violation could now lead to multiple permit violations and considerable penalties.

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[10] "Potential to Emit for MACT Standards--Guidance on Timing Issues" Memorandum from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS) to EPA Regional Air Division Directors, May 1995. Available at: https://www.epa.gov/sites/production/files/2015-08/documents/pteguid.pdf.

[11] "National Emission Standards for Hazardous Air Pollutants: General Provisions" proposed rule, Jan. 3, 2007. Fed. Reg. No. E6-22283. Available at: https://www.regulations.gov/document?D=EPA-HQ-OAR-2004-0094-0048

[12] "Standards of Performance for New Stationary Sources: Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Wastewater" proposed rule and notice of public hearing, Sept. 12, 1994. Fed. Reg. No. 94-22133. Available at: https://www.gpo.gov/fdsys/pkg/FR-1994-09-12/html/94-22133.htm.

[13] https://www3.epa.gov/ttn/atw/nsps/socww/socwwpg.html

[14] "Hazardous Waste Generator Improvements Rule", final rule, Nov. 28, 2016. Fed. Reg. No. 2016-27429. Available at: https://www.federalregister.gov/documents/2016/11/28/2016-27429/hazardous-waste-generator-improvements-rule

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We respectfully request that EPA review the rule and work with stakeholders to simplify reuse and recycle provisions with appropriate controls. We recognize that in February 2017, several trade associations filed a petition for review of the November 2016 final rule.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) – *Superfund Challenges*

Members have indicated that provisions under Superfund have made land rehabilitation prohibitively expensive and created successor liability issues related to property transfers.

We respectfully request that EPA review Superfund and work with stakeholders to update and remedy provisions that are ineffective and prohibitively costly in rehabilitating these sites.

Emergency Planning and Community Right To-Know Act (EPCRA) – *Toxics Release Inventory (TRI)*

Some of our members have noted a recent shift with requests or requirements for additional information, contrary to certain prior approved uses of best estimates and despite additional testing not being required under EPCRA Section 313.[15] In addition, efforts to provide greater transparency have resulted in confusing or misleading information. For example, compliance status included pictorially in an Envirofacts report, with data from the Enforcement and Compliance History Online (ECHO) database, may show non-compliance across more than one quarter (which can imply more than one violation) where only a single violation existed (overlapping quarters, though not necessarily during each entire quarter). Information about federally permitted releases could also be made clearer. We do appreciate past steps EPA has taken to engage stakeholders and to put risk into context, and welcome the opportunity to work with EPA on improved transparency and recognition for pollution prevention successes.

We respectfully request that EPA review TRI reporting activities, adhere to EPCRA and the agency's guidance, provide additional context for release information made publicly available, and continue to engage with stakeholders on program improvements and pollution prevention.

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PLASTICS would appreciate the EPA giving consideration to these issues and welcomes any questions you may have. Thank you for this opportunity.

Respectfully submitted,

Marie Gargas

Marie Gargas
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[15] See also industry specific guidance at: https://ofmpub.epa.gov/apex/guideme_ext/f?p=104:81:::no::p81_id:rp

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